

Exhibit No. 10Date 3-30-09Bill No. HB 3

**FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

CANYON FERRY ROAD BAPTIST  
CHURCH OF EAST HELENA, INC.;  
BERTHOLD GOTLIEB STUMBERG, III,  
"B.G.",

*Plaintiffs-Appellants,*

v.

DENNIS UNSWORTH, Montana  
Commissioner of Political  
Practices, in his official and  
individual capacity,

*Defendant-Appellee.*

No. 06-35883

D.C. No.  
CV-04-00024-DWM

OPINION

Appeal from the United States District Court  
for the District of Montana  
Donald W. Molloy, Chief District Judge, Presiding

Argued and Submitted  
August 4, 2008—Seattle, Washington

Filed February 25, 2009

Before: Harry Pregerson, William C. Canby, Jr., and  
John T. Noonan, Circuit Judges.

Opinion by Judge Canby;  
Concurrence by Judge Noonan

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Jeff Laszloffy

years, protected by the constitution and the courts. Churchmen — principally Congregationalists and Unitarians — took up the cause of universal freedom and over bitter opposition and armed rebellion assured the triumph of what they put forward as a Christian cause.

A century later, when the fruits of freedom had been imperfectly realized and African-Americans still suffered grievously from discriminatory laws and practices, Christian churchmen again led the way in what has been aptly described by one of its leaders, the Reverend Joseph Lowery, as “the black church coming alive.” Its opening moments occurred in 1955 in Montgomery, Alabama when Rosa Parks refused to move to the back of the bus and was arrested for violating a municipal ordinance segregating bus seating by race. Martin Luther King, Jr., a local pastor, emerged as the leader of a boycott of the buses by blacks. At each critical stage King spoke in the language of religion. At the first mass meeting he quoted the words of Jesus as reported in the Gospels, told the crowd that their protest should be “with Christian love,” and gave as advice, “Let your conscience be your guide.” The crowd sang “Onward Christian Soldiers.” When his house was bombed, King cooled the crowd saying, “What we are doing is just. God is with us.” For King, conscience was a trumpet. *The Lustre of Our Country* (1998) 256.

Is it necessary to evoke these historic struggles and the great constitutional benefits won for the country by its churches in order to decide this case of petty bureaucratic harassment? It is necessary. The memory of the memorable battles grows cold. The liberals who applaud their outcomes and live in their light forget the motivation that drove the champions of freedom. They approve religious intervention in the political process selectively: it's great when it's on their side. In a secular age, Freedom of Speech is more talismanic than Freedom of Religion. But the latter is the first freedom in our Bill of Rights. It is in terms of this first freedom that this case should be decided.